

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

WENGUI GUO
a/k/a Miles Kwok,

Plaintiff,

- against -

YELIANG XIA,

Defendant.

CASE NO. 1:18-CV-00174-LO-TCB

OBJECTION TO “AMICUS CURIAE” FILING BY DEFENDANT’S COUNSEL

COMES NOW, Plaintiff Wengui Guo (“Wengui”) by counsel in objection to Ning Ye’s purported *amicus curiae* brief submitted on behalf of Defendant Yeliang Xia.

Defendant’s attorney’s submission styled an “*Amicus Curiae*” [*sic.*] (Doc. 138) should be disregarded by the Court because it is patently improper. Ning Ye was explicitly prohibited from drafting “any future filings in this case” by the Order of Hon. Theresa Carroll Buchanan dated May 24, 2019 (Doc. 89), and Ning Ye’s “*amicus*” brief in contravention of that Order is a mostly unintelligible diatribe proposing that the outcome of the trial would have been different had Ning Ye been allowed to conduct it – a question not currently at issue. As such, the Court should disregard Doc. 138 and strike it from the record.

Ning Ye was admitted to this Court *pro hac vice* upon the certification of Defendant’s “local counsel” Harry Dennis III, Esq. (Doc. 54). Thereafter, Ning Ye propounded a series of objectionable and unintelligible filings and arguments that led the Court to Order that he “no longer participate in this case.” (Doc. 89.) Despite the Court’s restriction of his

involvement, Ning Ye remained in the case in an advisory role to Mr. Dennis. At trial, Ning Ye (who sat at Defendant's table) was reprimanded by the Court repeatedly for his conduct, which included communicating with Defendant during his cross-examination by Wengui's counsel and speaking with Defendant while he was in the witness box during a sidebar conducted by the Court. Following the trial, Ning Ye submitted a hand written "Letter of Resignation" (Doc. 123), unsigned by Defendant or Mr. Dennis. Notably, the second page of that letter is another handwritten Document styled "Friend of the Court." Presumably, Ning Ye "resigned" as Defendant's counsel as a pretense for attempting to make yet another inappropriate filing.

Ning Ye acknowledges in his most recent filing that because there is no Federal Rule of Civil Procedure governing motions for leave to submit an *amicus* brief, Courts have been guided by Federal Rule of Appellate Procedure 29 when determining whether to exercise discretion and grant leave to submit such a brief. Ning Ye then conspicuously flouts Federal Rule of Appellate Procedure 29 by the submission of his brief.

Preliminarily, Ning Ye failed to move for leave to submit his brief, even after Wengui's counsel explicitly objected to such filing by e-mail dated August 26, 2019. Fed. R. App. Pr. 29(3). Additionally, Ning Ye failed to serve Wengui's counsel with his submission, or include any statement as to why such a brief is desirable and why the matters asserted are relevant to the case. Fed. R. App. Pr. 29(3)(B). Further, Ning Ye's brief was nearly double the allowable length. Fed. R. App. Pr. 29(4); Fed. R. App. Pr. 32(a)(7)(A). Also, Ning Ye failed to include the required statement pursuant to Fed. R. App. Pr. 29(4)(E). Finally, Ning Ye's brief is untimely, as it was filed more than seven days after the principal brief in favor of Defendant was filed. Fed. R. App. Pr. 29(6).

Notwithstanding the fact that Ning Ye was explicitly prohibited from filing anything further in this case, and the fact that his filing is woefully deficient even by his own cited standards, his brief is valueless because it articulates no comprehensible position relevant to the post-trial motion practice at issue. Indeed, the brief is wrought with unsupported conclusory assertions, contains many defamatory statements about Wengui, and evidences a profound misunderstanding of the relevant facts, law, and procedural history of this case. As such, it is respectfully submitted that Doc. 138 be disregarded by the Court and stricken from the record in this action.

Dated: Washington, DC
September 4, 2019

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CERTIFICATE OF SERVICE

I hereby certify that I have this 4 day of September 2019, caused an accurate copy of the foregoing Objection to Defendant's Counsel's "*Amicus Curiae*" Filing to be filed with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to all counsel of record, including:

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